

Update: Criminal Procedure Monograph 2—Issuance of Search Warrants (Revised Edition)

Part A — Commentary

2.13 The Exclusionary Rule and Good Faith Exception

Add the following case summary to the July 2003 and August 2004 updates to page 25:

As adopted by the Michigan Supreme Court in *People v Goldston*, 470 Mich 523 (2004), “[t]he ‘good faith’ exception [to the exclusionary rule] renders evidence seized pursuant to an invalid search warrant admissible as substantive evidence in criminal proceedings where the police acted in reasonable reliance on a presumptively valid search warrant that was later declared invalid [internal citation omitted].” *People v Hellstrom*, ___ Mich App ___, ___ (2004). Without deciding whether the search warrant in *Hellstrom* was valid, the Court of Appeals applied the good-faith exception to evidence seized by police officers pursuant to a warrant based on a magistrate’s probable cause determination. *Hellstrom, supra* at ___.

In *Hellstrom*, two minor females accused the defendant of sexually assaulting them in the defendant’s home. On the basis of these allegations and an officer’s experience that suspects accused of assaulting young females “use [] pornography for sexual gratification” and “are known to have items of sexual gratification inside their homes, computers and other devices,” the police officer obtained a search warrant for the defendant’s home. *Hellstrom, supra* at ___. The warrant described with particularity the place to be searched and the items to be seized if discovered during the search. The defendant argued that the search warrant was invalid because (1) it was not based on probable cause and (2) it was a “general” warrant that failed to fetter the police officers’ discretion in seizing evidence. *Hellstrom, supra* at ___.

The *Hellstrom* Court affirmed the trial court’s denial of the defendant’s motion to suppress, not for the trial court’s expressed reason—that the warrant was supported by probable cause and was not overly broad—but because the purpose of the exclusionary rule would not be furthered by excluding

evidence obtained by a police officer's objectively reasonable reliance on the validity of the warrant. *Hellstrom, supra* at _____. The Court concluded

“that the officers conducting the search of defendant's home acted in good-faith reliance on the magistrate's probable cause and technical sufficiency determinations regarding the search warrants. The supporting affidavits were not ‘so lacking in indicia of probable cause’ as to say that the officers could not objectively believe that the warrant was supported by probable cause. And there is no reason to believe the facts alleged in the affidavit were false or that the magistrate was misled by false information. Also, although there were no allegations in the affidavit that defendant had videotaped or taken pictures of the complainants, it did assert that the crimes happened in defendant's residence. Given the affiant's knowledge that pedophiles generally possess pornographic images for sexual gratification, it was not ‘entirely unreasonable’ to believe that evidence of a crime would be found in defendant's home, whether it be images taken of the complainants without their knowledge or possession of other material that would constitute child pornography [internal citations and footnote omitted].” *Hellstrom, supra* at _____.